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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CONTEMPT PETITION NO.93 OF 2007

Saifee Ibrahim Khambati Petitioner
versus
MHADA and others Respondents

Mrs.Varsha Palav for petitioner.

CORAM : A.S.OKA, J.
DATE : 15th March 2007

PC :

1. The petitioner is alleging breach of order dated 8th July 2005 passed by this Court and later on confirmed by this Court by order dated 25th August 2006. The order dated 8th July 2005 reads thus :-

> "Stand Over for two weeks.
>
> In the meanwhile, the Slum Rehabilitation Authority to ensure that an area of 135 sq.ft. is not alienated from the scheme in question, in view of exhibit 'C' to the petition."

2. My attention has been invited to the affidavit filed by the 7th respondent. In the said affidavit the 7th respondent has stated as under :-

> "7. I say that the SRA scheme is already sanctioned and construction work is in progress, pursuant to the order dated 25.08.2006 the SRA authority have to ensure that area of 136 sq.ft. is not alienated from the scheme in question, as per the sanctioned of the scheme no premises admeasuring about 136 sq.ft. Premises are constructed and available in the scheme in question but the area of Petitioner's eligibility and Respondent no.3's eligibility is approximately 136 sq.ft. and the Respondent No.7 have not handed over the possession of both the premises to Petitioner and Respondent No.3."

3. The contention of the learned advocate for the petitioner is not that an area of 136 sq.ft. is not earmarked. The contention is that the area has been alienated. According to the advocate for the petitioner relevant averments have been made in paragraph no.20 of the contempt petition. In paragraph no.20 the only allegation is that the respondent nos.4 to 7 have not kept the premises of area of 136 sq.ft. non alienated. There is no positive assertion that the area of 136 sq.ft. has been alienated by any of the respondents in breach of the orders passed by this Court. Hence, no case is made out for taking action under the Contempt of Courts Act, 1971 as of today. Petition is rejected.

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(A.S.OKA, J.)